Previous references.

File No. 73
of 1903-04.

1904

(III - Courts.)

Later references.
G.T. 73 of 1903-04,
Sl. Nos 12 and 13,
Sls. 4-9 & 11-12.

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1 to 3 and 10.

PART B FOR July 1904.

SUBJECT.

Extradition warrant for arrest and surrender of Pacha, reputed to be now living in Salem.

FILE No. 73 OF 1903-04.

Application for an extradition warrant for the arrest and surrender of one Pacha, who has been ordered by the Chief Court to undergo enhanced punishment.

1 From the District Magistrate, Bangalore District, No. 696, dated 10th February 1904.
Requests that the enclosed application for an extradition warrant for the arrest and surrender of one Pacha reported to be now in the Salem District, as he has to undergo the enhanced punishment ordered by the Chief Court, (with enclosure—a file of record).

2 To the First Assistant to the Resident in Mysore, No. 1689, dated 22nd February 1904.
Forwards copy of Serial No. 1 with its enclosures, in original, to be returned when done with, and requests the issue of an extradition warrant to the District Magistrate, Salem, for the arrest and surrender of the said accused Pacha.

3 From the First Assistant to the Resident in Mysore, No. 974, dated 26th February 1904.
Enquires whether the notice issued by the Chief Court, requiring the accused to show cause why the original sentence should not be enhanced, was, as a matter of fact served personally on him.

[Serial Nos. 4 to 9 have been filed.]

10 To the First Assistant to the Resident, No. Pol. 38, dated 15th July 1904.
Forwards, for information, copy of the order dated 17th September 1903, of the Chief Court, who decided that the accused had sufficient opportunity given to him, and states that the Durbar will not press their application should there be difficulty about the accused's surrender.

G. R. S. 58.
15-7-04

Office of the Dewan of Mysore.

File No. (if any)

Directions.

No., date and purport of receipts to be entered in red, and office note in black ink in order of dates.—To be written only on one side, and inside the line of margin.

Office Note.

Branch Judicial C.

Subject Extradition Warrant

Letter No 6768 dated 10th February 1904. from the Dt Magte, Bangalore requesting applying for the issue of an ——— for issue of an arrest and surrender of one Pacha sentenced to undergo 4 hours' imprisonment by the 1st class Magte, Closepet but which was directed by the Chief Court to be enhanced to six months rigorous imprisonment.

Submitted for orders with a draft.

13/2/04 This is a case in which the ~~accused is not~~ person whose surrender is desired is not merely "accused" of an offence, but has also been "convicted" of it, & his surrender is necessary, not for his trial, but for enforcing the sentence.

The new Extradition Act, XV of 1903, applies to such cases also (Vide p. 12), but ~~It~~ the rule bringing it into force has ~~apparently not~~ yet been issued under s. 1. There is no corresponding provision in the Act of 1879. I do not believe,

& copy put up

however, that any difficulty on that account will be raised to the man's surrender in the present instance.

The draft may therefore, I think, be approved—

13.2.04

Subd to the Dewan through the 2d/r 15/2/04

6814 16.2.04

16/2/04

If the new Act has not yet come into force I am afraid there will be a difficulty. However let us try. I agree to the draft.

16/2/04

16/2/04

1597/9 17.2.04.

Draft appd by Dewan, 2 Secl.

The J. & Regr. enquires whether the sentence passed by the Chief Court, requiring the accused to show cause why the original sentence should not be enhanced, was as a matter of fact served personally on him—

The Registrar of the Chief Court, in his D.O. of this date (29 ult) in reply to mine, states that the accused was not personally served; and adds that it is not worthwhile

to apply for extradition, as the
accd may be seized by the Police
when he returns to his native place
Kandanhalli.

Draft to D.A.R. put up.
I have added a para to it, advising our
~~willingness~~ ~~to~~ ~~to~~ ~~to

Signed
[illegible] before me on the
[illegible] of the Chief Secretary
[illegible] the Record Name
[illegible] of the Deeds.

1/3/04

[illegible]

the Demands orders —

Please enquire how the notice was served & whether under Section 439 the accused was given an opportunity of being heard either personally or by Pleader in his own defence, & call for record. D.O. Correspondence is necessary in such matters.

(Id) P.W.K.
8-3-04

Enquiry was accordingly made. The Registrar, Chief Court has forwarded the record of the case. It appears therefrom that the notice was not served personally on the accused Pacha — As the notice was not served, the accused does not seem to have had an opportunity of being heard either personally or by Pleader. But on the order of the Chief Court it is remarked that 'although the third accused has had an opportunity to show cause why the sentence should not be enhanced, he has neither appeared before

It is entirely by the Chief Court's direction that the notice was served on the accused here. This, however, I have not found it possible to carry.

before me etc etc?

A fair copy of the former draft is

To dine with the Chancellor

31 Mar

16908
31.3.04.

Under the circumstances
a clause therefore
now proposed
seems suitable.

31/3/04

31/3/04

0 is 80

This is an important
matter. There is
no case of a criminal
proceeding against
Sir Percy expressly
made - but it
is clear from
that the words included
the Chairman of the
Commissioners
under the Commissioners
Clauses Act

Please draft accordingly
4/4/04

1.4.04

draft issued —

In reply, the Registrar refers back to the order of the Chief Court dated 17th September 1908, which begins thus: "Although the third accused had an opportunity to show cause why the sentence should not be enhanced etc."

There is no reply to the question of the service of the notice on the house of the accused, which is entered in the note of the Chief Judge but could not be verified from the records.

Submitted for orders

19/6/24

Read back from the Late Asst Secretary (C. Anantaswami Rao Esq) on 22/6/24

24.6.24

Brought to me today. Please call for the information wanted.

22.6.1924

draft to Regr., Chief Court, is submitted for approval

24/6/24

No. 2774 dated the 24th June last was issued requesting the Registrar to state whether the notice issued by the Chief Court was as a matter of fact served on the house of the accused.

In reply the Registrar says that the Chief Justice and Mr. Merk Lyshon having decided that sufficient opportunity had

been given to the accused to show cause against enhancement of sentence it is not now open to the Court to add to or explain the grounds of the order.

The Chief Court Registrar's D.O. of the 27th February last shows the accused as a native of Kankanhalli but from the application to the Resident for an Extradition warrant it would appear that the accused is a British subject but was residing in Kankanhalli.

If approved the application will be renewed

GHS
4/7/10.

The reference to the Chief Court has not been productive of any useful information. The Chief Court is unable to obtain the matter further. In these circumstances I think the order of the 31st July (which was made without notice) may be upheld, or not.

H Erskine
5/7/10

8/7/10

I do not think that any reply touching can be given. It is not correct that the order was asked to be added to or explained from — The Record has no information about the service of the notice, & the note on the notice states that it was returned without service — The Court was asked whether to any decree

– mention that information
touching the role of the late
Chief Justice that it was received
on the terms ~~that~~ which would ~~never~~ appear
to have been misapprehended in that
such information – Senhado
(draft-which submitted for approval)
that in addition the refusal
of the Chief Court to act by this
information, not understood
– to be taken with seriousness
intended.

H. W. H.
11.VII.04

Branch III

13.7.04

I then submit to enable me to prepare a Dr.

(S.)

The letter to the Residency has issued & the file
is resubmitted.

DRB
18/7/a. AK
18-7-04

D. O. to Mr Justice Stag
draft-ms for approval –

(S.)

339
19.7.04

J. 1217

From The Dt Magistrate Bangalore Dt

To The Secy to the Govt of Mysore Rev and Genl Depts

Dated 10th Feby 04.

Despatched 11th Feby 04.

Received

General No.

S. No. 696

Enclosure No. One and a file of papers

Requesting to move the Hon'ble the Resident in Mysore in the matter of the arrest of one Pacha Sutteeas to undergo rehmns imprisonment by the 1st class Magistrate Hoskote range but which was directed by the Chief Court to be enhanced.

Sl. No 1 J1217

Sr 2696

Bangalore District

To be laid before Court

District Magistrate's Office

Bangalore 10th February 1896.

From,

H. H. Sparkes Esqr:

Dt Magistrate.

Bangalore Dt.

To,

H. V. Nanjundayya Esqr M.A.

Secy to the Govt of Mysore

Revenue Genl Depts.

Sir,

I have the honor to

State that M Ahamad Ali, Assistant

Commissioner and 1st Class Magistrate

while he was in Charge of the Hoskot

Range tried one Pacha of Kankanhalli

for an offence under Section 380 Indian

Penal Code in Criminal Case No 1430 of 1895/96

of

Of that Court and Sentenced him to undergo 1 Month's imprisonment, and to a fine of Rs 100/-. The Chief Court in Criminal Revision Case No 310 of 1913 issued a notice to the said accused. To show cause why the sentence should not be enhanced but he failed to appear before the Chief Court. The Sentence passed by the Court of the 1st instance was considered insufficient by the Chief Court who directed that the accused should undergo rigorous imprisonment for six months and confirmed the Sentence of fine passed by the Lower Court. Thereupon the 1st class Magistrate was directed by the Court to issue a warrant in pursuance

of

of the Chief Court order. But the warrant which was issued for the arrest of the accused was returned unexecuted by the Kankanhalli Taluk Police, as the accused had quitted the Mysore territory and was reported to be living near the mosque at Shankankote, Salem District, of the Madras Presidency. The records have accordingly been sent by the Mysore Range Magistrate with his memo No 322 dated 3rd February 1881 with an application for a warrant under the Extradition Act for the arrest of the accused and I herewith, submit them with a request that Government will kindly move the Hon'ble the British Resident in Madras.

I have the honor to be,

Sir,

Your most Obedient Servant,

[signature]

1st Asst Dt Magistrate

Application for a Warrant under Act XXI of 1879, the Foreign Jurisdiction and Extradition Act.

1. Officer to whom the warrant should be issued. — District Magistrate, Salem

2. Magistrate of the District who wants the warrant issued. — District Magistrate Bangalore

3. Name and description of accused person. — Pacha Son of Beeram Sab, 25 years Labbe caste Residence Kankankalli

4. Where or under whose custody the accused person is supposed to be. — The accused is said to be near a mosque at Dhankhan kote"

5. Name of the offence committed, and section of the Indian Penal Code under which the accused is charged. — Theft in a building. Section 380 Indian Penal Code

6. Officer to whom the accused should be surrendered — 1st Class Magistrate Hosehet range

7. Place at which the accused should be delivered. — Hosehet

8. Whether the accused is a British subject, a subject of Mysore, or to which State he belongs. — A British Subject

Dt Magistrate

OFFICE OF THE GOVT OF MYSORE,

Bangalore, 10th February 1890

for Dt Magistrate
Bangalore Dt
Under-Secretary.

Ll No 2

No. 1685/7

OFFICE OF THE GOVT. OF MYSORE.

Dated 22nd February 1904

From

The ~~General~~ Secretary to the Government of Mysore.

To

The First Assistant to the Resident in Mysore.

SIR,

In forwarding copy of letter No. 696 dated 10th Febry 1904 from the ~~Deputy Commissioner~~ 2d Magte, Bangalore District, as also ~~XXX~~ two Cheeranas in original (to be obligingly returned when no longer required), ~~in Criminal Case No. of 189 on the file of the Commissioner and Class Magistrate of the~~ regarding in which one Pacha, son of Beera ~~Native of~~ Salem, a native of British India, ~~is charged with~~ has been convicted of theft in a building and has escaped into British India, punishable under Section 380, I. P. Code, I am directed to request that an extradition warrant may be issued to the District Magistrate of Salem, for the arrest & surrender of the said accused to the 1st class Magte Coimbatore Range at Coimbatore.

2. The usual statement containing the necessary particulars for the preparation of the warrant is also enclosed.

I have the honor to be,

Sir,

Your most obedient servant,

~~General~~ Secretary.

Sl No 3 J 1309

(6)

B. P. B.—12-03.—1,000.

Rec'd 26/2/04

Pol. 1327

No. 974

Reg letter + quer
to Mr Chandrasekhara Ayar
last left for reg
draft reply
26/2/04

FROM

R. C. H. MOSS. KING, Esq., I. C. S.,
FIRST ASSISTANT TO THE RESIDENT IN MYSORE.

To

The Dewan of Mysore.

Dated Bangalore, 26 February *1904.*

SIR,

With reference to Mr. Anantasami Rao's letter No. 1689 J, dated the 22nd February 1904, regarding the Extradition of Pacha, I am directed to enquire whether the notice, issued by the Chief Court requiring the accused to show cause why the original sentence should not be enhanced was, as a matter of fact, ~~severed~~ served personally on him.

I have the honour to be,
Sir,
Your most obedient servant,

First Assistant Resident.

MK

H No 10.

To

The Asst to the Resident
in Mysore.

Dated. 15th July 1904.

PoC: No: 38. Encl 1.

Sir,

In reply to the enquiry made in your letter No. 574 dated the 26th February 1904, I am directed to state that the accused Pacha was not personally served with the notice to show cause why the original sentence should not be enhanced; but that at the same time the judges of the Chief Court who heard the case have decided that he had sufficient opportunity for doing so, as will be seen from the copy enclosed of their order dated the 17th September 1903.

2

2. I am to add that in case there should be any difficulty about the accused's surrender, the Durbar will not press their application as he is a resident of Kankanhalli (Bangalore District) and ~~could~~ can be seized by the Mysore Police when he returns to that place.

I have to

13.7.1904

My Secretary.

11.VII.04

Let me see the f.c.z the enclosure (Cl. Dy. Chief Cons)

14.7.04

Rd. 14.7.04.

Returned R. 14.7.04.